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In re Application of
BRU-MAGNIEZ, Nicole et al
Application No.: 09/600,895
PCT No.: PCT/FR99/00185
Int. Filing Date: 29 January 1999
Priority Date: 29 January 1998
Attorney's Docket No.: 00156
For: NOVEL SURFACTANT COPOLYMERS
BASED ON METHYLDENE
MALONATE

DECISION ON PETITION
UNDER 37 CFR 1.181

The decision is in response to applicants' "Request to Withdraw Holding of Abandonment" filed on 18 September 2000. This is treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 29 January 1999, applicants filed international application PCT/FR99/00185 claiming priority to a French patent filed 29 January 1998. A copy of the international application was communicated from the International Bureau to the United States Patent and Trademark Office ("PTO") on 05 April 1999.

On 17 April 1999, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire thirty months from the priority date, i.e., 29 July 2000.

On 26 July 2000, applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, an English translation; a preliminary amendment; and authorization to charge the basic national fee to a credit card. Applicants also claim that a Credit Card Payment Form (PTO-2038) was also submitted.

On 14 September, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) because of failure to provide the full U.S. Basic National Fee by 20 months [sic] from the earliest claimed

priority date.

On 18 September 2000, applicants submitted the instant petition which was accompanied by, *inter alia*, copies of documents submitted 26 July 2000 including the aforementioned Credit Card Payment Form and a stamped postcard receipt of the documents filed 26 July 2000.

On 19 September 2000, applicants submitted an executed declaration.

DISCUSSION

A Credit Card Payment Form required to charge the basic national fee was not located in the above-captioned file. Therefore, the PTO was unable to charge the basic national fee in the above-captioned application.

Nevertheless, MPEP § 503 lists procedures to ensure receipt of any paper filed in the PTO. Applicants must enclose a self-addressed postcard identifying all of the papers filed. The PTO will stamp the receipt date on the card and place it on the outgoing mail. The identifying data on the card must clearly identify the paper for which receipt is requested. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

In this case, applicants have provided a copy of the date-stamped filing receipt for the documents submitted 26 July 2000. The receipt clearly identifies the application by the name of the applicants, attorney docket number, and international application number. The filing receipt declares in a box labeled "Fee(s)" that \$970.00 was received in the PTO and annotated next to the box are the words "Filing fee - Credit Card billing." The postcard receipt is stamped "90 Rec'd PCT/PTO 26 JUL 2000" across its face. This description is sufficient to prove that a Credit Card Payment Form was included with the documents.

Accordingly, applicants have provided *prima facie* evidence that the Credit Card Payment Form was received on 26 July 2000.

CONCLUSION

For the reason listed above, applicants' request to withdraw the holding of abandonment is GRANTED.

Accordingly, the Notification of Abandonment mailed 14 September 2000 is hereby VACATED.

On the new transmittal form (PTO-1390) located on the PTO website, is a box

for credit card authorizations.

Applicants have completed the requirements for acceptance under 35 U.S.C. § 371(c). The application has an international filing date of 29 January 1999, under 35 U.S.C. 363, and a 35 U.S.C. 371(c) date of 19 September 2000.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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